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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,817	02/20/2002	Rodney Malcolm Druitt	50179-094	1467

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EXAMINER

NGO, LIEN M

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 05/14/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/936,817

Applicant(s)

DRUITT ET AL.

Examiner

LIEN TM NGO

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because it includes more than 150 words.

Correction is required. See MPEP § 608.01(b).

2. The disclosure is objected to because of the following informalities: in page 11, line 15, "rib 13" should be --rib 20--.

Appropriate correction is required.

Claim Objections

3. Claims 1, 4, 6, 11, 14 and 22 and objected to because of the following informalities:

In claim 1, lines 20, "the end portion" of both occurrences should be --the end portion of the container--;

in claim 4, line 3, "the second portion" should be --the second portion of the sealing rib--;

in claim 6, line 2, "the first position" should be --the first portion--;

in claims 11 and 14, "the rib" should be --the sealing rib--;

in claim 22, line 2, "the rib" should be --the sealing rib--, in lines 4 and 8, "the end portion" should be --the end portion of the container--, and in lines 6-8, "the top portion" should be --the top portion of the closure--.

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Appropriate correction is required.

Drawings

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the cross section symbolic of plastic material (claim 16), the third portion (claim 15), the sealing rib has a thickness increasing (claim 14), the mold (claim 24), the step of molding in a mold (claims 27 and 28) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the proper of the cross section symbolic plastic material of the closure as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 14 and 15 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The sealing rib has “has a thickness that increases..” (claim 14) and “The sealing rib includes a third portion ...” (claim 15) are not described in the specification.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 7-9, 24, 27 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 7-9, “the peak” lack antecedent basis.

Claims 24, 27 and 28 are indefinite because it can not determined what is required for the mold.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1, 5, 10-14, 16-21, 23-25, 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Druitt (WO 9903746).

In regard to claims 1 and 5, Druitt discloses, in fig. 2a, a closure comprising an annular sealing rib 16 projecting downwardly from an underside of the closure top portion; the sealing comprising a first portion 15 and a second, frusto-conical, portion 17 having an upper side, an underside and an extending circular edge; and an annular protrusion 18 formed on underside of the second portion, the protrusion on attachment of the closure with the container end portion engages the outer surface of the container end portion so causing the sealing rib to be disposed over a greater area of the outer surface of the container end portion (see fig.3). The annular protrusion 18 is positioned about the midway between the first portion and circular edge of the second portion.

In regard to claims 10-14, the closure comprises a screw thread, and the limitations of the first portion of the sealing rib as claimed (see figs. 1 and 2).

In regard to claims 16-20, the closure is made from polyethylene (page 4, line 18) in one piece, and comprises a tamper evident band as claimed (see fig. 5).

In regard to claims 21 and 23, the closure comprises an annular ridge 21 positioned radially inside of the sealing rib, and a weaken zone 20.

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In regard to claims 24, 25 and 27-29, Druitt discloses a mold and steps of injection molding, and a container as claimed (see page 4, and fig. 3).

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 2-4 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Druitt in view of Tansey (5,782,369).

Druitt does not disclose the protrusion comprising annular ridge having substantially triangular in cross-section which is extending outwardly to a peak.

Tansey teaches, in fig. 5, a protrusion 17 comprising annular ridge having substantially triangular in cross-section which is extending outwardly to a peak.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Druitt closure having the protrusion of sealing rib with annular ridge having substantially triangular in cross-section which is extending outwardly to a peak, in the view of the teaching of Tansey, in order to have the sealing rib to be sealed over a greater area on the container.

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14. Claims 6 and 26 rejected under 35 U.S.C. 103(a) as being unpatentable over Druitt.

In regard to claim 6, Druitt does not disclose the annular protrusion disposed closer to the first portion than the free edge of the second portion.

It would have been an obvious matter of design choice to dispose of the annular protrusion in Druitt closer to the first portion, as claimed, in order to provide an extending seal of the closure over on the container.

In regard to claim 26, a container, which is used in an aseptic or hot fill process, is well known in the art, as disclosed by applicant in the specification of the present application, pages 1 and 2,

15. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Druitt in view of Blake et al. (5,676,269).

Druitt does not disclose the upper side of the second portion of the sealing rib having an annular ridge.

Blake et al. teach, in fig. 11, a closure having the upper side of the second portion 34 of a sealing rib 32 having an annular ridge as claimed.

Therefore, It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the Druitt closure having the upper side of the second portion of the sealing rib having an annular rib, as taught by Blake et al., in order to provide an extending seal and an engagement means adapted to interlock and hold the sealing rib touching the underside to the closure top portion stationary.

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16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Martin, Plunkett, and Brownbill teach closures having sealing ribs with extending seal portions.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Ngo whose telephone number is (703) 305-0294. The examiner can normally be reached Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful. The examiner's supervisor, Lee Young, can be reached at (703)308-2572. The Group FAX number is (703) 305-3579.

Any inquiry of a general nature or relating to the status of the application should be directed to the Group receptionist at (703) 308-1148.



Lien Ngo

May 9, 2003